

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 10/28/2022

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

LAWRENCE D. LIEBER,

Defendant.

LAWRENCE D. LIEBER,

Counterclaimant,

v.

MARVEL CHARACTERS, INC., and DOES
1-10, inclusive,

Counterclaim-Defendants.

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Defendant.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES
1-10, inclusive,

Counterclaim-Defendants.

**JOINT STIPULATION AND
[REPROPOSED] ORDER REGARDING
RULE 26(A)(2) DISCLOSURES**

Case No.: 1:21-cv-7955-LAK
and consolidated cases
21-cv-7957-LAK and 21-cv-7959-
LAK

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

KEITH A. DETTWILER, in his capacity as Executor of the Estate of Donald L. Heck,

Defendant.

KEITH A. DETTWILER, in his capacity as Executor of the Estate of Donald L. Heck

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES 1-10, inclusive,

Counterclaim-Defendants.

STIPULATION

Plaintiff and Counterclaim-Defendant Marvel Characters, Inc. and Defendants and Counterclaimants Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler (collectively, the “Parties”) stipulate as follows:

WHEREAS, during the October 3, 2022 scheduling conference, the Court modified the schedule for the above three referenced cases (which have been consolidated for pretrial purposes) such that (a) all discovery—including fact and expert discovery—shall now be completed on or before March 1, 2023; and (b) any motions for summary judgment shall now be served on or before April 7, 2023.

WHEREAS, the Court issued the Third Amended Scheduling Order for the S.D.N.Y Cases reflecting the modifications discussed at the October 3, 2022 scheduling conference.¹

¹ See Order (ECF No. 51), *Marvel Characters, Inc. v. Lieber*, No. 1:21-cv-07955-LAK (S.D.N.Y.); Order (ECF No. 46), *Marvel Characters, Inc. v. Ditko*, No. 1:21-cv-07957-LAK (S.D.N.Y.); Order (ECF No. 49), *Marvel Characters, Inc. v. Dettwiler*, No. 1:21-cv-07959-LAK (S.D.N.Y.).

WHEREAS, the interim dates for Rule 26(a)(2) expert disclosures were not discussed during the October 3, 2022 scheduling conference.

WHEREAS, the Court's Third Amended Scheduling Order kept the original dates for Rule 26(a)(2) expert disclosures, *i.e.* November 28, 2022 and December 16, 2022, for expert and rebuttal expert disclosures respectively.

WHEREAS, the Parties agree that the deadlines for Rule 26(a)(2) expert disclosures with respect to expert witnesses and rebuttal expert witnesses should be continued to January 20, 2023 and February 8, 2023, respectively, so that any experts will have the benefit of a more fully developed factual record.

WHEREAS, recognizing that the Third Scheduling Order states that no further extensions will be permitted, this modification will not delay the overall progress of the case but rather impacts only the interim dates for Rule 26(a)(2) expert disclosures.

Based on the foregoing, **IT IS HEREBY STIPULATED** by and between the Parties, through their respective counsel of record, subject to the Court's approval, that:

1. The deadlines for Rule 26(a)(2) disclosures with respect to expert witnesses and rebuttal expert witnesses shall be continued to January 20, 2023 and February 8, 2023, respectively.

Dated: October 27, 2022

O'MELVENY & MYERS LLP

By: /s/ Daniel M. Petrocelli
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Dated: October 27, 2022

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Attorneys for Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler

SO ORDERED:

/s/ Lewis A. Kaplan (mab)

Hon. Lewis A. Kaplan
United States District Judge

DATE: 10/28/2022